



# Department of Justice

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## **INFINEON TECHNOLOGIES AG AGREES TO PLEAD GUILTY TO PARTICIPATING IN DRAM PRICE-FIXING CONSPIRACY**

***Also Agrees to Pay \$160 Million Fine - Third Largest In Antitrust History***

WASHINGTON, D.C. - Infineon Technologies AG (Infineon), a German manufacturer of dynamic random access memory (DRAM), has agreed to plead guilty and to pay a \$160 million fine for participating in an international conspiracy to fix prices in the DRAM market, the Department of Justice announced.

DRAM is the most commonly used semiconductor memory product, providing high-speed storage and retrieval of electronic information for a wide variety of computer, telecommunication, and consumer electronic products. DRAM is used in personal computers, laptops, workstations, servers, printers, hard disk drives, personal digital assistants, modems, mobile phones, telecommunication hubs and routers, digital cameras, video recorders and televisions, digital set top boxes, game consoles, and MP3 digital music players. There are more than \$5 billion in DRAM sales annually in the United States.

According to the one-count felony charge filed today in the U.S. District Court in San Francisco, from July 1, 1999 to June 15, 2002, Infineon conspired with unnamed DRAM manufacturers to fix the prices of DRAM sold to certain computer and server manufacturers. Under the plea agreement, which must be approved by the court, Infineon has agreed to cooperate with the government in its ongoing investigation of other DRAM producers.

“This case sends the message that high-tech price-fixing cartels will not be tolerated - a message reinforced by the largest criminal fine levied in a Department of Justice case in the past three years,” said Attorney General John Ashcroft. “Vigorous antitrust enforcement is important to our nation’s economy. We are committed to pursuing illegal price-fixing cartels that harm American consumers, regardless of whether they are at home or abroad.”

The computer makers directly affected by the price-fixing conspiracy were: Dell Inc., Compaq Computer Corporation, Hewlett-Packard Company, Apple Computer Inc., International Business Machines Corporation, and Gateway Inc.

“Today’s charge and its resulting guilty plea represent an important victory in the Department’s ongoing fight to break up and prosecute cartels that harm American consumers,” said R. Hewitt Pate, Assistant Attorney General in charge of the Department’s Antitrust Division. “This case reinforces the importance of antitrust enforcement in high-technology markets, one of the most important sectors of the American economy.”

Infineon is charged with carrying out the conspiracy by:

- Participating in meetings, conversations, and communications in the United States and elsewhere with competitors to discuss the prices of DRAM to be sold to certain customers;
- Agreeing, during those meetings, conversations, and communications, to charge prices of DRAM at certain levels to be sold to certain customers;
- Issuing price quotations in accordance with the agreements reached; and
- Exchanging information on sales of DRAM to certain customers, for the purpose of monitoring and enforcing adherence to the agreed-upon prices.

“Infineon is the first company to agree to plead guilty to price-fixing charges in our ongoing investigation of antitrust violations in the DRAM industry,” said James M. Griffin, the

Antitrust Division's Deputy Assistant Attorney General for Criminal Enforcement. "Infineon's fine is the third largest criminal fine in the history of the Antitrust Division. More importantly, Infineon will provide valuable assistance in our continued investigation of the DRAM industry."

On December 17, 2003, the Department charged Alfred P. Censullo, a Regional Sales Manager for Micron Technology Inc. (Micron), with obstruction of justice in connection with its investigation of possible price fixing in the DRAM market. On January 21, 2004, Censullo, who was the first person to be charged in the Division's ongoing investigation, pled guilty to the charge and admitted to having withheld and altered documents responsive to a grand jury subpoena served on Micron in June 2002. Censullo is scheduled to be sentenced later this year.

Infineon Technologies AG was charged with violating Section 1 of the Sherman Act, which carries a maximum fine of \$10 million for corporations and a maximum penalty of three years imprisonment and a \$350,000 fine for individuals for violations occurring before June 22, 2004. The maximum statutory fine may be increased to twice the gain the conspirators derived from the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine.

Today's charge is the result of an ongoing investigation being conducted by the Antitrust Division's San Francisco Field Office and the Federal Bureau of Investigation in San Francisco.

Anyone with information concerning price-fixing in the DRAM industry should contact the San Francisco Field Office of the Antitrust Division at (415) 436-6660 or the San Francisco Division of the FBI at (415) 553-7400.

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